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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,710	10/17/2003	Satoshi Miyaji	032024	8795
38834 7590 10/28/2008 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER				
THOMAS, JASON M				
ART UNIT		PAPER NUMBER		
2423				
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10/28/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/686,710

Applicant(s)

MIYAJI ET AL.

Examiner

Jason Thomas

Art Unit

2423

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/686,710.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date 9/8/08

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 29 July 2008 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner et al., U.S. Pat. No. 5,956,716 (hereinafter Kenner) in view of Northcutt et al., U.S. Pat. No. 7,346,689 B1 (hereinafter Northcutt) and Rao et al., U.S. 7,406,248 B1.

Regarding claim 1: Kenner discloses a moving picture file distributing device which receives a moving picture file by uploading and stores it in storage means, and distributes the moving picture file stored in the storage means to a client by downloading (see [abstract]), comprising: a download buffer generating means for dynamically generating a download buffer for temporarily holding a

moving picture file (see [col. 5, ll. 8-16], [col. 12, ll. 14-18] for creating a type of session, or an interface rather, for sequencing data between the user terminal and a optimal storage unit for each user upon receiving a request for download; see also [col. 12, ll. 5-13], [col. 16, ll. 53-57] where the created DSI is used to buffer the transmitted data during the downloading process) but does not explicitly teach wherein the buffer generation is accomplished at the time of distribution correspondently to a session number for a session, wherein the download buffer is generated after the another session number is notified, or an upload buffer generating means for dynamically generating an upload buffer for temporarily holding a moving picture file at the time of reception correspondently to a session number for a session, wherein the upload buffer is generated after the session number is notified.

Northcutt however teaches system capable of allowing users to establish a number of sessions unique to each user at a terminal to establish communication with one or more service providing servers through a network (see [cols. 3-4, ll. 66-2], [col. 6, ll. 12-23], [col. 6, ll. 31-44] where a session is established after a session manager has been notified; see also [col. 7, ll. 52-56], [col. 4, ll. 48-52] for services which are provided after establishing a session such as live audio or video services).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to, begin the process of generating a DSI for each user, which creates a buffer, at the initiation of a downloading process, as taught in

Kenner, only after the notification of a user session, as taught in Northcutt, because by first creating a session the provision of services executed on behalf a user can be identified singly by a session and can provide the user with the security of being authenticated first.

Rao teaches a device for uploading data where the received data is stored in a temporary buffer, which is allocated from memory, until the server designated to receive the upload is available to receive the data (see [cols. 2-3, ll. 65-12], [col. 3, ll. 21-27]; see also [col. 8, ll. 12-21]).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to, provide the same buffer allocation capability for uploading data, as taught in Rao, when providing a means of generating a buffer to optimize downloads in addition to the ability to upload data to remote servers, as taught in Kenner, because providing a means to allocate a buffer for efficiently uploading data to a server is a well know means to optimize server operations (see [col. 8, ll. 12-21]).

Regarding claims 2: The combined teachings of Kenner, in view of Northcutt or Rao, teach the moving picture file distributing device of claim 1, further comprising: means for, after holding an entire moving picture file in the upload buffer is completed, transferring the moving picture file to the storage means (see Kenner [col. 11, ll. 33-44], [cols. 11-12, ll. 65-3], [col. 15, ll. 21-23], [col. 16, ll. 53-57] for storing video in contiguous allocation blocks; see also Rao [col. 8, ll. 12-21] for buffering the data in its entirety or only in portion for the

uploading of data to the server); and means for, after an entire moving picture file is transferred to the storage means, eliminating the upload buffer (see Rao [fig. 4c], [col. 9, ll. 1-12] for de-allocating memory at the completion of uploading to the server), wherein the upload buffer generating means generates an upload buffer when uploading is started (see Rao [col. 8, ll. 12-21] where the upload buffer allocation is initiated when uploading is initiated).

Regarding claim 3: The combined teachings of Kenner, in view of Northcutt or Rao, teach the moving picture file distributing device of claim 1, further comprising: means for, each time holding fragments in a moving picture file in the upload buffer by one fragment is completed, transferring the fragments to the storage means; and means for, after all fragments in a moving picture file are transferred to the storage means, eliminating the upload buffer, wherein the upload buffer generating means generates an upload buffer when uploading is started (see Rao [col. 8, ll. 12-21] for buffering portions of the data to be uploaded so that data may be momentarily buffered when received from the uploading device; see also Rao [col. 9, ll. 1-12] for eliminating the upload buffer).

Regarding claim 4: The combined teachings of Kenner, in view of Northcutt or Rao, teach the moving picture file distributing device of claim 1, further comprising: means for, at the same time with the generation of the download buffer, transferring a moving picture file to be downloaded from the storage means to the download buffer (see Kenner [col. 5, ll. 11-16], [col. 12, ll. 26-29], [col. 16, ll. 53-57] for transferring the data to be downloaded from the

storage means to the download buffer at the time of the buffer generation which is created upon a user request); and means for, after an entire moving picture file is downloaded, eliminating the download buffer (see Rao [col. 9, ll. 10-12] for eliminating a memory buffer after the buffer has completed its use), wherein the download buffer generating means generates a download buffer when downloading is started (see [col. 5, ll. 11-16]).

Regarding claim 5: The combined teachings of Kenner, in view of Northcutt or Rao, teach the moving picture file distributing device of claim 1, further comprising: means for, at the same time with the generation of a download buffer, transferring a moving picture file to be downloaded from the storage means to the download buffer by one fragment; and means for downloading fragments from the download buffer (see Kenner [col. 15, ll. 14-21] for transferring the data from the storage in storage blocks; see also Rao [col. 8, ll. 12-21] for transferring data in portions of the whole), and eliminating the download buffer after all fragments in a moving picture file are downloaded (see Rao [col. 9, ll. 10-12] for eliminating a memory buffer after the buffer has completed its use), wherein the download buffer generating means generates a download buffer when downloading is started (see [col. 5, ll. 11-16]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Thomas whose telephone number is (571) 270-5080. The examiner can normally be reached on Mon. - Thurs., 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J. Thomas

/Andrew Y Koenig/
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